

liability in damages or other legal remedy for breach of any promise or warranty in the contract to sell or the sale. But if, after acceptance of the goods, the buyer fail to give notice to the seller of the breach of any promise or warranty within a reasonable time after the buyer knows or ought to know of such breach, the seller shall not be liable therefor.

A prayer asserting a breach of warranty as a defense to an action for the price of the article should refer to the time when the seller was notified of the defect. *May Oil Burner Corp. v. Munger*, 159 Md. 616.

A prayer making it the duty of defendant to accept and pay for material ordered or return it within a reasonable time after delivery, under penalty of paying full purchase price regardless of whether such material conformed to sample, is in conflict with this section. See notes to sec. 87. *Berman v. Littauer*, 141 Md. 655.

The last sentence of this section has no application where proof shows that article sold was repeatedly sent back to seller for repairs, and that he was thus apprised of difficulties buyer was having in its use. *Rittenhouse, W. Auto Co. v. Kissner*, 129 Md. 111.

An. Code, 1924, sec. 71. 1912, sec. 71. 1910, ch. 346, sec. 68 (p. 286).

68. Unless otherwise agreed, where goods are delivered to the buyer, and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he notifies the seller that he refuses to accept them.

An. Code, 1924, sec. 72. 1912, sec. 72. 1910, ch. 346, sec. 69 (p. 286).

69. When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods. If the neglect or refusal of the buyer to take delivery amounts to a repudiation or breach of the entire contract, the seller shall have the rights against the goods and on the contract hereinafter provided in favor of the seller when the buyer is in default.

Chapter IV.

An. Code, 1924, sec. 73. 1912, sec. 73. 1910, ch. 346, sec. 70 (p. 287).

70. (1) The seller of goods is deemed to be an unpaid seller within the meaning of this sub-title:

(a) When the whole of the price has not been paid or tendered.

(b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has been broken by reason of the dishonor of the instrument, the insolvency of the buyer, or otherwise.

(2) In this part of this sub-title the term "seller" includes an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price, or any other person who is in the position of a seller.

An. Code, 1924, sec. 74. 1912, sec. 74. 1910, ch. 346, sec. 71 (p. 287).

71. (1) Subject to the provisions of this sub-title, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has—

(a) A lien on the goods or right to retain them for the price while he is in possession of them;